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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,692	03/09/2004	Colby Nash	FY.51040US1A	2923
20995 7590 05/09/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER BROWN, DREW J	
			ART UNIT 3616	PAPER NUMBER
			NOTIFICATION DATE 05/09/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

# Office Action Summary

Application No.

10/796,692

Applicant(s)

NASH ET AL.

Examiner

Drew J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 4/10/07 (RCE).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-32 and 34 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-22,33 and 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/10/07.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/10/07 has been entered.

### *Claim Objections*

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claim 30 appears twice in the application; therefore, misnumbered claims 31-36 have been renumbered claims 32-37.

3. Claims 15-17 and 33 are objected to because of the following informalities:

In line 2 of claim 15, "at least one frame member" should be changed to --at least one of the two frame members--.

In line 2 of claim 16, "the at least one frame member" should be changed to --the at least one of the two frame members--.

In line 4 of claim 17, "[is placed on a one of" should be changed to --is placed on one of--.

In line 6 of claim 17, "the support member" has been changed to --the support members--.

In line 12 of claim 33, "different that a distance" should be changed to --different than a distance--.

Appropriate correction is required.

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***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2, 4-18, and 37 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. In lines 11 and 12, the limitations that each retainer of the front set is configured to retain a front end of a respective suspension arm and that each retainer of the rear set is configured to retain a rear end of a respective suspension arm renders the claim indefinite because it is unclear to the examiner exactly what part of the suspension arm is being retained.

7. In line 5 of claim 18, the limitation that each vertical member supports an end of the suspension arm on generally opposite sides of the suspension arm end renders the claim indefinite because it is unclear to the examiner how the vertical members support an end on opposite sides of the suspension arm end. The examiner suggests amending the claim to recite --each vertical member supporting an end of the suspension arm on generally opposite sides of said suspension arm--.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

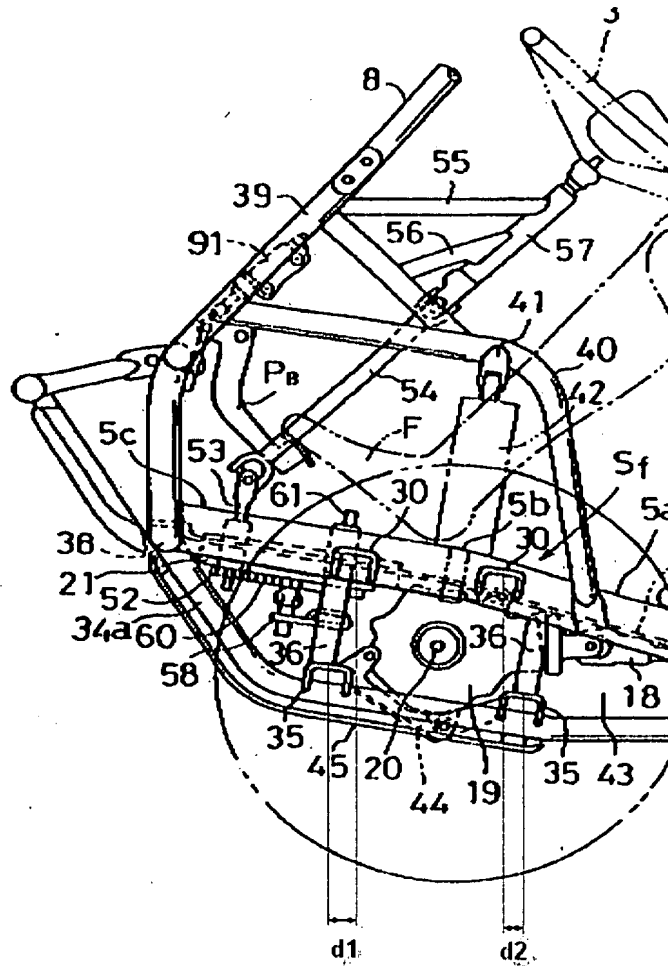
9. Claims 1, 2, 4-22, 33, 36, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Furuhashi et al. (U.S. Pat. No. 5,327,989).

With respect to claim 1 and 32, Furuhashi et al. discloses an off-road vehicle comprises a frame (1) extending generally fore to aft, at least one wheel (2), and first (31)

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and second (33) suspension arms, each including a plurality of ends and being configured to suspend the wheel from the frame (Figure 4), the frame including two frame members (5 and 34) extending generally fore to aft, the vehicle further comprising front (30) and rear (35) sets of retainers being coupled to the frame members, the retainers of at least one of the front and rear sets being spaced apart from each other in a fore-to-aft direction with a fore-to-aft spacing between the retainers of the rear set (Figure 5), each retainer of the front set being configured to retain an end of a respective suspension arm (31) and each retainer of the rear set being configured to retain an end of a respective suspension arm (33) so as to permit the respective suspension arm to swing relative to the respective set of retainers (Figure 4). A front retainer of each set is configured to retain a front end of a respective suspension arm in a manner permitting the respective suspension arm to swing relative to the respective set of retainers (Figure 4), the front retainers being spaced apart from each other in a fore to aft direction by a distance which is different than a distance by which the rear retainers are spaced apart from each other in a fore to aft direction ( $d1 > d2$  as shown in Figure below).

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With respect to claim 2, the retainers extend generally vertically relative to the frame members (Figure 5).

With respect to claim 4, the second suspension arm is spaced apart from the first suspension arm generally in the vertical direction (Figure 4), the vehicle additionally comprising a link (32) coupling the first and second suspension arms with each other, the link being coupled to the wheel (Figure 4).

With respect to claims 5 and 21, the tops of the retainers/vertical members are inclined outward relative to a longitudinal center plane of the frame, which extends generally vertically and fore to aft (Figures 4, 5, and 7).

With respect to claims 6 and 22, the first suspension arm is disposed above the second suspension arm (Figure 4), and the second suspension arm is longer than the first suspension arm (column 6, lines 37-39).

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With respect to claim 7, each one of the retainers has first (left flanges containing mounting holes in the retainers) and second (right flanges containing mounting holes in the retainers) surfaces opposing each other, and each end of the suspension arm comprises a mount member and that each one of the mount members is journaled between the first and second surfaces of one of the retainers (Figures 4 and 5).

With respect to claim 8, the first and second surfaces extend generally vertically (Figures 4 and 5).

With respect to claim 9, the first and second surfaces extend outward from the respective frame member relative to a longitudinal center plane of the frame, which extends generally vertically fore to aft (Figure 4).

With respect to claim 10, the first and second surfaces extend outward from the respective frame member relative to a longitudinal center plane of the frame, which extends generally vertically and fore to aft (Figure 4).

With respect to claim 11, each one end of the first and second surfaces is connected to the respective frame member (Figure 5).

With respect to claims 12 and 13, the mount members are positioned at different elevations relative to each other (Figure 5). The mount members retained within the portions are positioned higher than the mount members retained within the portions (Figure 5).

With respect to claim 14, the respective ones of the retainers are connected to the respective frame member (Figure 5).

With respect to claim 15, at least one of the two frame members has a vertical surface (36) extending generally vertically, and the respective retainers are at least partially connected to the vertical surface (Figure 7).

With respect to claim 16, that the at least one of the two frame members is a rectangular parallelepiped member (cross section of frame 5 in Figure 7).

With respect to claim 17, the frame additionally comprises a set of support members (36, Figure 7) and the vehicle further comprises a link (32), the support members extending generally vertically (Figure 5), the support members spaced apart from each other fore to aft (Figure 5), and wherein at least one of the retainers is places

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on one of the support members and at least another of the retainers is placed on another one of the support members (Figure 7), the link coupling together the first and second suspension arms, the link being coupled to the wheel (Figure 4).

With respect to claim 18, at least one wheel (2) is rotatable about an axis, a suspension arm (31) is configured to suspend the wheel from the frame, the frame including at least first and second vertical members (36, 36, Figure 5) extending generally vertically, each vertical member supporting an end of the suspension arm on generally opposite sides of the suspension arm (Figure 6), the vertical members spaced apart from each other fore to aft and arranged on opposite sides of the axis of the wheel (Figure 5), the suspension arm being coupled to the vertical members in a manner permitting the suspension arm to swing relative to the frame (Figure 7).

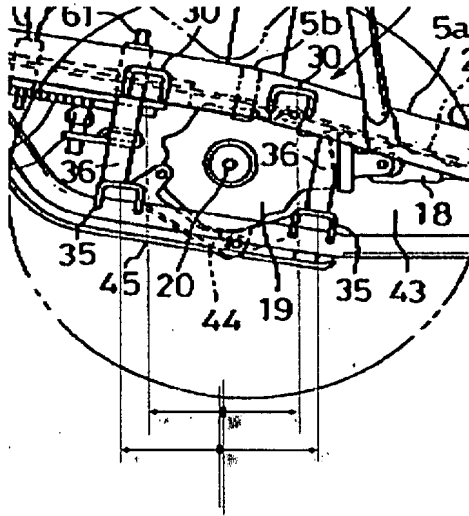
With respect to claim 19, the frame additionally includes first (5) and second (34) horizontal members extending generally horizontally fore to aft to support the vertical members (Figure 7).

With respect to claim 20, a second suspension arm (33) is spaced vertically apart from the first suspension arm (Figure 4), the second suspension arm also being coupled to the vertical members in a manner permitting the second suspension arm to swing relative to the frame (Figure 7), and a link coupling the first and second suspension arms together (Figure 4), the link supporting the wheel (Figure 4).

With respect to claim 36, a frame (10) and upper (31) and lower (33) suspension arms, the frame extending generally horizontally fore to aft, the upper and lower suspension arms each including two ends being pivotally coupled to the frame (Figure 4), the ends of upper suspensions arm being spaced apart from each other fore to aft at a first length, the ends of the lower suspension arm being spaced apart from each other fore to aft at a second length, wherein a midpoint of the first length is not aligned with a midpoint of the second length along a vertical line (see Figure below).



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With respect to claim 37, the fore to aft spacing between the retainers of the rear set is greater than the fore to aft spacing between the retainers of the front set (Figure 5).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furuhashi et al.

Furuhashi et al. discloses the claimed invention as discussed above and that a differential (19) is coupled to the wheel (Figure 5), one of the first and second vertical members being disposed generally forward of the differential and the other one of the first and second vertical members being disposed generally rearward of the differential (Figure 5), but does not disclose that it is a rear differential. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the front suspension located at the rear of the vehicle, and the engine (12) located at the front of the vehicle so that the front differential is a rear differential, since it has been held that rearranging parts of an invention involves only routine skill in the art.

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***Allowable Subject Matter***

12. Claims 23-32 and 34 are allowed.

***Response to Arguments***

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown  
Examiner  
Art Unit 3616

db  
4/27/07

 4/30/07  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600